

**RHODE ISLAND DEPARTMENT OF LABOR & TRAINING
DIVISION OF PROFESSIONAL REGULATION
BOARD OF EXAMINERS OF ELECTRICIANS**

1511 Pontiac Avenue, Bldg 70, 2nd Floor Conference Room

Cranston, RI 02920

Wednesday, July 15, 2015

9:30am

In attendance: Keith Burlingame

Michael Daley

Stanley Davies

William Lepore, Jr. Chair

Robert Zuba

Board member Frank Benell, Jr. was not in attendance.

Also in attendance were Robert Fratus, Electrical Investigator; Glenn Dusablon, Chief Electrical Investigator; and Angelyne E. Cooper, DLT Legal Counsel.

1.) Call to Order: William Lepore, Jr, Chair, called the meeting to order at 9:31am.

2.) Minutes of the June 17, 2015 Meeting: Michael Daley made a motion to accept the minutes of June 17, 2015 meeting as presented; seconded by Stanley Davies and passed unanimously by the Board.

3.) Conflict of Interest – Legal Counsel will address the Board concerning compliance with conflict of interest requirements: Angelyne E. Cooper, DLT Legal Counsel, reminds board members that they are subject to the RI conflict of interest laws and of their responsibility to disclose conflicts of interest, financial or otherwise, and should recuse from hearing and voting on the matter.

4.) Violation Appeal Hearings:

The violations for Mercury Tec (Violation 5146), Johnathan Wilk (Violation 5147) and Robert S. Cooke (Violation 5148) are for the same premises and were before the board on June 17, 2015 and continued to today. Testimony for these hearings is heard concurrently as they stem from the same incident. Robert S. Cooke and Johnathan Wilk are present. There was no representative present from the company, Mercury Tec, for today's hearing.

Robert Steven Cooke, Johnathan Wilk, Nick Ranone and Robert Fratus are sworn in for testimony.

Mercury Tec – Violation 5146:

Name of Violator: Mercury Tec, 33 Curtis St, East Providence, RI 02914

Location of Violation: Mega Bakery, 567 Reservoir Ave., Cranston, RI 02910

Violation: RIGL 5-6-2 Work for which license required

It was reported on 4/23/15 to Chief Electrical Investigator Robert Fratus by Chief Mechanical Investigator Nicholas Ranone that on 4/23/15 he witness employees for Mercury Tec, Inc. Robert S. Cooke and Jonathan Wilk performed the electrical work of the determining line voltage disconnect for the HVAC roof top unit and the installation of a new unistrut rack and mounting the line voltage disconnect terminated at the new roof top HVAC unit at Mega Bakery 567 Reservoir Ave. Cranston, RI 02910. Chief Electrical Investigator Robert Fratus called Robert S. Cooke, employee for Mercury Tec, Inc., on 4/24/15 questioning Mr. Cooke about who performed the electrical work at Mega Bakery 567 Reservoir Ave., Cranston, RI 02910. Mr. Cooke admitted to performing the electrical work. Chief Mechanical Investigator Nicholas Ranone asked the two employees who performed the electrical work. They both admitted to performing the electrical work.

Violation: RIGL 5-6-25 Compliance with rules and requirement of city or town.

After contacting the city electrical inspector it was found Mercury Tec, Inc. did not have the needed electrical permit for the work performed at Mega Bakery, 567 Reservoir Ave., Cranston, RI 02910.

Johnathan Wilk – Violation 5147:

Location of Violation: Mega Bakery, 567 Reservoir Ave., Cranston, RI 02910

Violation: RIGL 5-6-2 Work for which license required.

It was reported on 4/23/15 to Chief Electrical Investigator Robert Fratus by Chief Mechanical Investigator Nicholas Ranone that on 4/23/15 he witness employees for Mercury Tec, Inc., Robert S. Cooke and Johnathan Wilk, performed the electrical work of the determining line voltage disconnect for the HVAC roof top unit and the installation of a new unistrut rack and mounting the line voltage disconnect terminated at the new roof top HVAC unit at Mega Bakery, 567 Reservoir Ave., Cranston, RI 02910. Chief Mechanical Investigator Nicholas Ranone asked the employees working for Mercury Tec, Inc. who performed the electrical work at Mega Bakery, 567 Reservoir Ave., Cranston, RI 02910. They both admitted to performing the electrical work.

Robert S. Cooke – Violation 5148:

Location of Violation: Mega Bakery, 567 Reservoir Ave., Cranston, RI

Violation: RIGL 5-6-2 Work for which license required.

It was reported on 4/23/15 to Chief Electrical Investigator Robert Fratus by Chief Mechanical Investigator Nicholas Ranone that on 4/23/15 he witness employees for Mercury Tec, Inc., Robert S. Cooke and Jonathan Wilk, performed the electrical work of the determining line voltage disconnect for the HVAC roof top unit and the installation of a new unistrut rack and mounting the line voltage disconnect terminated at the new roof top HVAC unit at Mega Bakery 567 Reservoir Ave., Cranston, RI 02910. Chief Electrical Investigator Robert Fratus called Robert S. Cooke, employee for Mercury Tec, Inc., on 4/24/15 questioning Mr. Cooke about who performed the electrical work at Mega Bakery, 567 Reservoir Ave., Cranston, RI 02910. Mr. Cooke admitted to performing the electrical work.

It is noted that Robert S. Cooke, Johnathan Wilk and a representative for Mercury Tec were present at the hearing on 6/17/15 and testimony was provided. At that time, the Board continued the matter to hear testimony from a third party, Donald Gagnon. Donald Gagnon does not appear. Respondent informs the board that Mr. Gagnon attempted to contact the Department by telephone but cannot confirm if he made contact. Robert Fratus could not confirm if Mr. Gagnon had contacted the Department.

Board members inquire if Donald Gagnon was notified to appear at today's hearing. Donald Gagnon was notified of today's hearing by certified and regular mail. The notice is read to the Board.

Sean Nolan, RIDLT Implementation Aid, is sworn in for testimony and confirms that the notice was sent to Donald Gagnon by certified and regular mail. No subpoena was sent.

Having heard testimony that Mr. Gagnon performed the work and no testimony that he did not, Keith Burlingame made a motion that all three violations (5146, 5147 and 5148) be dismissed. Michael Daley seconds the motion. All were in favor. Motion carries.

The recommendation will be forwarded to the Director's office.

NOTE: Violation 5131, Douglas J. Leblanc; and Violation 5132, Jonathan A. Auger, were on the June agenda and continued to this month. At that time it was noticed that Arthur Butt, employer of Mr. Leblanc and Mr. Auger, signed their requests for appeal. Sean Nolan, Implementation Aid for the Department, having previously been sworn, confirms notice was sent to Mr. Leblanc and Mr. Auger for today's hearing.

Keith Burlingame made a motion to continue with the hearing in their absence; seconded by Stanley Davies and passed unanimously by

the Board.

Robert Fratus reads the violations.

Douglas J. Leblanc – Violation 5131:

Location of Violation: European Wax Center 1000 Division St, Store 17, East Greenwich, RI 02818

Violation: RIGL 5-6-2 Work for which license required.

It was reported to Chief Electrical Investigator Robert Fratus by Chief Licensing Examiner Robert J. Gaj that on 4-7-2015 Mr. Gaj made a site visit to European Wax Center, 1000 Division Street, Store 17, East Greenwich, RI 02818, where he found two unlicensed employees of Arthur Butt Electric performing the electrical work of fishing wires in sheet rock walls. Douglas J. Leblanc and Jonathan A. Auger are the two unlicensed employees of Arthur Butt Electric (A-004886).

Jonathan A. Auger – Violation 5132:

Location of Violation: European Wax Center, 1000 Division Street, Store 17, East Greenwich, RI 02818

Violation: RIGL 5-6-2 Work for which license required.

It was reported to Chief Electrical Investigator Robert Fratus by Chief Licensing Examiner Robert J. Gaj that on 4-7-2015 Mr. Gaj made a site

visit to European Wax Center, 1000 Division Street, Store 17, East Greenwich, RI 02818, where he found two unlicensed employees of Arthur Butt Electric, performing the electrical work of fishing wires in sheet rock walls. Douglas J. Leblanc and Jonathan A. Auger are the two unlicensed employees of Arthur Butt Electric (A-004886).

Robert Gaj, DLT Chief Licensing Examiner, is sworn in and provides testimony and is questioned by the Board.

Robert Fratus submits two (2) packets of photos as Exhibits A and B for both Violation 5131 and 5132.

Regarding Violation 5131 and 5132, Michael Daley made a motion that a violation did occur of RIGL 5-6-2 Work for which a license is required; seconded by Stanley Davies and passed unanimously by the Board.

Regarding the penalty for Violation 5131 and 5132, Michael Daley made a motion that the fine of \$500.00 be imposed per RIGL 5-6-32; seconded by Stanley Davies and passed unanimously by the Board.

The recommendation will be forwarded to the Director's office.

Beacon Energy Solutions – Violation 5116: Respondent's legal counsel is working with the Department on a settlement.

Maverick G. Couture – Violation 5117: Respondent's legal counsel is working with the Department on a settlement.

Jerome S. Malsky, Jr. – Violation 5118: Respondent's legal counsel is working with the Department on a settlement.

NOTE: Violations 5162 and 5163 stem from the same incident. Testimony was heard concurrently. Constantine Lambenos and Steven McDonald are sworn in for testimony.

Robert Fratus submits two packets of documents into evidence; one packet for each violation. The packets are marked 5162 Exhibit A for Constantine Lambenos (Violation 5162) and 5163 Exhibit A for Steven McDonald (Violation 5163).

Robert Fratus reads the violations into the record.

Constantine Lambenos – Violation 5162:

Location of Violation: 2160 Main Road, Tiverton, RI 02878, Black Goose Cafe

Violation: One violations of RIGL 5-6-2 Work for which license

required.

On 5-15-2015, I, Chief Electrical Investigator Robert Fratus, received a call about electrical being performed at 2160 Main Road, Tiverton, RI 02878, Black Goose Cafe. When I first arrived at 2160 Main Road, Tiverton, RI 02878, Black Goose Cafe I witnessed Constantine Lambenos and Steven McDonald performing the electrical work of pulling wire for the building sewer system. I spoke with Mr. Lambenos about the electrical work he was performing and ask to see his Rhode Island electrical license. He then showed me his Massachusetts' electrical license. Mr. Lambenos stated that he knew it was wrong. He also stated that he does not do electrical work any more but a family member needed help and that Steven McDonald was just helping him pulling wire.

Violation: One violation of RIGL 5-6-25 Compliance with rules and requirements of city or town.

At the time of my site visit, Mr. Lambenos did not have the needed town issued electrical permit to perform this electrical work.

Steven L. McDonald – Violation 5163:

Location of Violation: 2160 Main Road, Tiverton, RI 02878, Black Goose Cafe

Violation: One violations of RIGL 5-6-2 Work for which license required.

On 5-15-2015, I, Chief Electrical Investigator Robert Fratus, received a call about electrical being performed at 2160 Main Road, Tiverton, RI, 02878, Black Goose Cafe. When I first arrived at 2160 Main Road, Tiverton, RI 02878, Black Goose Cafe, I witnessed Constantine Lambenos and Steven McDonald performing the electrical work of pulling wire for the building sewer system. I spoke with Mr. Lambenos about the electrical work he was performing and ask to see his Rhode Island electrical license. He then showed me his Massachusetts' electrical license. Mr. Lambenos stated that he knew it was wrong. He also stated that he does not do electrical work any more but a family member need help and that Steven McDonald was just helping him pulling wire.

The Board questions Mr. Fratus. Constantine Lambenos and Steven McDonald provide testimony. Parties are questioned. Chief Electrical Investigator, Glenn Dusablon also addressed the Board.

In relation to Violations 5162 and 5163, Michael Daley made a motion that a violation of RIGL 5-6-2 Work for which a license required did occur on Violation 5162 and 5163 and in the matter of Violation 5162 a violation of RIGL 5-6-25 Compliance with rules and requirements of city or town did occur. The motion is seconded by Robert Zuba and passed unanimously.

Regarding the penalty for Violation 5162, Michael Daley made a motion that a fine of \$1,000.00 be imposed per RIGL 5-6-32; and in the matter of 5163 per RIGL 5-6-32 a fine of \$500.00 be imposed. The motion was seconded by Keith Burlingame and passed unanimously.

The recommendation will be forwarded to the Director's office.

Michael Archetto – Violation 5153: Michael Archetto is sworn in for testimony. Robert Fratus submits a packet of documents marked Exhibit A. Mr. Fratus reads the violation.

Location of Violation: City of Woonsocket, Rhode Island

Violation: RIGL 5-6-2 Work for which license required.

On 5-13-2015, I, Robert Fratus, received a call from the Westerly Building office to check on a license for John Archetto DBA / Johnny's Electric (A-001222) to confirm it's status that of being active or inactive. I found that it was inactive. After receiving this call I looked into this licensing matter further and found that the holder of license (A-001222) John Archetto DBA / Johnny's Electric had passed away on August 29, 2013. Then I contacted the Woonsocket Building Office to see if any electrical permits were issued to John Archetto DBA / Johnny's Electric (A-001222) since this was his home town and the home town of his son Michael Archetto on DLT licensing system.

The Woonsocket Building office sent over three permits issued to John Archetto DBA / Johnny's Electric (A-001222) dated 3/11/14, 5/5/14 and 3/4/15. Along with the permits was sent over a copy of John Archetto DBA / Johnny's Electric (A-001222) license. On this altered license the expiration date was the date of his son Michael Archetto birth day and cycle year, Michael Archetto cycle year was odd number (1,3,5) his father, John Archetto was even years (2,4,6) renewal are always on the last of the license holders birth month.

This is three violations of RIGL 5-6-2 Work for which license required.

Robert Fratus provides testimony. Michael Archetto provides testimony. Parties are questioned. Glenn Dusablon, Chief Electrical Investigator also addressed the Board.

Keith Burlingame made a motion based upon evidence presented and testimony by the violator himself that a violation did occur on Violation 5153 for the three permits issued in the City of Woonsocket; seconded by Michael Daley and passed unanimously.

In the matter of Violation 5153 per RIGL 5-6-32, Michael Daley made a motion that a fine of \$1,500.00 be imposed; seconded by Keith Burlingame and passed unanimously.

The recommendation will be forwarded to the Director's office.

5.) Old Business: Status of recommended legislative changes: Michael Daley informed the Board that the recommended legislation did not pass.

**** Keith Burlingame informed the Board regarding contact with the Governor's office regarding the vacancy of the utility representative on the Board. Names should be submitted to Meredith Curran, Director of Appointments. Administrator John Shaw requested letters of interest should be submitted and they will be forwarded. Mr. Shaw also requested any names of those that may already have been submitted and he will look into the matter.**

6.) Trade Source - Discussion: Angelyne E. Cooper, DLT Legal Counsel addressed the Board regarding a meeting with Trade Source's attorney, Attorney Chris Whitney, regarding obtaining permits. His client's position is that they are operating legally. Regarding the Department's suggestion that the matter might be resolved if Trade Source obtained a permit, Attorney Whitney responded that Trade Source can't obtain the permit as the electrical contractor that Trade Source's employees are doing the work for obtains one and is responsible for supervision. Also that Trade Source and their employees are properly licensed. Attorney Whitney is willing to find another way to resolve the matter though he

could not think of one. Attorney Whitney also referred to a similar factual Massachusetts case involving a staffing firm that he feels is in their favor. That case has not been reviewed by the Department.

Chair Lepore stated that they are not saying they are not properly licensed but that they are not applying their license properly.

John Shaw, Administrator, addressed the Board, that the Department feels that they have not violated any state licensing electrical laws. Mr. Shaw recommends the Board put their concerns in a letter to the Director so they can be addressed.

Glenn Dusablon, Chief Electrical Investigator, questions if there is a violation of RIGL 5-6-23 of "transfer of license" if individuals are working under another contractor's license/permit. DLT Legal Counsel Cooper addressed this statute with Attorney Whitney and he and his client feels they are in compliance; that representatives of Trade Source have spoken with different representatives from the Department and there has never been any talk of them being in violation.

Glenn Dusablon, Chief Electrical Investigator, asks for a clear definition whether the Department considers this a violation of RIGL 5-6-23. Keith Burlingame states that should come from the Department not the Board.

Robert Zuba addressed the Board on his experience working in Massachusetts and that the laws are different regarding third party employees. Counsel Cooper reiterates that she has not reviewed the Massachusetts' case referred to by Attorney Whitney and is relaying what was represented to her.

Mr. Dusablon again refers to RIGL § 5-6-23 with the example that if he is employed by someone else and is working under another person's license, is that a transfer of license? Mr. Dusablon doesn't see how it is not. If it is allowed to happen Mr. Dusablon states it would be setting a precedence. Mr. Dusablon continues with examples of out of state contractor with licensed employees, the contractor cannot pull a permit but can send his employees to work under another contractor who holds the permit. Is this a transfer of license?

Mr. Shaw again encourages the concerns be submitted in a letter to the Director.

Mr. Dusablon would like a definition of what a "transfer of license" is. That over the years if a company was caught pulling permits for another company and having their employees working under that permit or license they have been cited for a violation of 5-6-23 and licenses have been suspended by the Department.

Mr. Dusablon states that if they obtained a permit it would take 5-6-23 out of the picture because now there is no transfer of license.

Mr. Dusablon continued if a company pulls a permit and puts employees of another company on the job, working under that company's license / permit, but not employed by that company, that is transferring a license for those employees to work for the company that pulled the permit who are not employees of that company. To Mr. Dusablon, this is a transfer of license. Chair Lepore states that he does not understand how the Department cannot see that it is.

Mr. Dusablon continued that if a company like Trade Source does not need to get a permit then the other company is transferring the license by letting the other company's employees work there. Only a master can employ a journeyman. So if another company's employees are working on a job under someone else's license/permit, Mr. Dusablon states he would call this a transfer of license. The way to get around that would be for the company to pull a permit for their employees and what they do. Mr. Dusablon states that is what the permit topic was regarding as a solution to what looks to him as a transfer of license. Mr. Dusablon states that he is not a legal person and that it would be up to legal to review it. Mr. Dusablon posed the question, what can he do under 5-6-23, can he employ other person's electricians with his license?

Counsel Cooper responds that everything is not up to legal, legal looks at what is presented to them and makes arguments both ways. They do not have the final say.

Chair Lepore asks what happens if the investigators, who are here for the purpose of finding violators, go out and issue violations.

It was stated that the Department's position was that it is not a violation.

Mr. Dusablon states that the Department's position was that the failure to pull a permit was not a violation and he is not arguing that point. That they are in violation of 5-6-23.

Keith Burlingame advised that Mr. Dusablon should get a ruling from the Department on that. Administrator Shaw again states to put the question in a letter to the Director regarding their concerns. Mr. Burlingame states that shouldn't come from the Board. That it is an internal matter. Mr. Shaw again states that the Department has given its ruling and if they have questions to put them in writing to the Director.

Mr. Dusablon states that the ruling is on the permit process and asks is there a ruling on the "transfer of license".

Mr. Burlingame states that previously the Board gave a vote and a ruling on installation of solar equipment. Mr. Burlingame doesn't recall ever getting a response. That ruling never sent out and was over ruled. There is an investigator that doesn't know whether to site

somebody or not. Mr. Burlingame states that it seems this an administrative function. If a violation is issued and comes before them then they will deal with it. That it shouldn't be the Board to tell the investigator whether it is a violation or not.

Mr. Dusablon states the Board is an advisory group, that the Department and the investigator expects the Board to advise. Mr. Dusablon inquires if the Board s sees this as a possible violation of RIGL § 5-6-23. Board members agreed. Mr. Burlingame thought the Department determined otherwise. Mr. Dusablon stated that Administrator Shaw stated that the permit process was not seen as a violation of RIGL § 5-6-25; that RIGL § 5-6-23 apparently has not been addressed.

Counsel Cooper reiterates that RIGL § 5-6-23 was brought up with her meeting with Attorney Whitney after a meeting with Mr. Dusablon, Robert Fratus, Administrator Shaw and Assistant Director Joe Degnan. Mr. Whitney's representation to Counsel Cooper was that it wasn't a violation of that either. They feel they are fully operating legally.

Mr. Dusablon asks if the permit holder on the job in violation by having people not employed by him on the job site under his permit. Mr. Dusablon inquires as to who would be sited under RIGL § 5-6-23 in these situations. Mr. Dusablon will put his request for clarification in writing.

Chair Lepore requests to keep the subject on the agenda.

7.) Adjournment: A motion to adjourn was made by Michael Daley; seconded by Robert Zuba. There was no opposition. The meeting adjourned at 10:46am.